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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENTDocket Number (Optional)
00041.10CON

In re Application of: Rabinowitz et al.

Application No.: 10/735,496

Filed: December 12, 2003

For: Delivery of Compounds for the Treatment of Migraine Through an Inhalation Route

The owner*, Alexza Molecular Delivery Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,805,854 B2 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;
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is found invalid by a court of competent jurisdiction;
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has all claims canceled by a reexamination certificate;
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2. The undersigned is an attorney or agent of record. Reg. No. 48,053

Signature

Date

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303-268-0066

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Terminal disclaimer fee under 37 CFR 1.20(d) included.

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